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**OFFICE OF PETITIONS**

In re Application of  
Hunter et al.  
Application No. 09/493,854  
Filed: January 28, 2000  
Attorney Docket Number: IVOO-0002  
Title of Invention: Music Distribution Systems

**ON PETITION**

This is a decision on the petition filed October 25, 2004<sup>1</sup>, under 37 CFR 1.137(a) to revive the above-identified application. This petition is properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment (no fee due).

The petition under 37 CFR §1.181 is **GRANTED**

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED**.

This above-identified application became abandoned for failure to timely file an appeal brief and submit the accompanying fee. Applicant filed a Notice of Appeal and three month extension of time on April 16, 2003. Pursuant to 37 CFR 41.37(a) applicant was required to file an Appeal brief two months from June 16, 2003. No further extensions of time pursuant to 37 CFR 1.136 were obtained. Accordingly, this application became abandoned on June 17, 2003. A Notice of Abandonment was mailed on December 11, 2003.

Petitioner states that a timely reply was mailed via certificate of mailing on November 11, 2003, which included the following papers: Request for Continued Examination (RCE ) Transmittal, credit card transmittal, and five month extension of time .

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<sup>1</sup> Petitioner has provided evidence that a petition filed under 37 CFR 1.137(a) was previously submitted on January 27, 2004 pursuant to 37 CFR 1.8.

Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of transmission dated November 11, 2003, which would have rendered the reply timely if received. Petitioner has also provided a copy of the sending unit's report confirming transmission. To meet the submission requirement under 37 CFR 1.114, petitioner requested the use of a previously submitted amendment.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

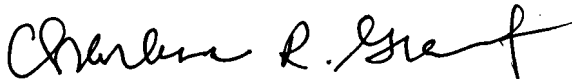
The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file an appeal brief is hereby withdrawn and the application restored to pending status.

Since the credit card originally submitted to pay the RCE and extension of time fees has expired, deposit account no. 23-3050 will be charged the \$1,005 extension of time fee and the \$385.00 RCE fee. Petitioner is entitled to a refund of the \$55.00 petition fee.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on November 11, 2003.

This application is being referred to Technology Center AU 3627 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is fluid and cursive, with a long horizontal stroke at the end.

Charlema R. Grant  
Petitions Attorney  
Office of Petitions

# RECEIVED BY THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Papers:** U.S. Patent and Trademark Office receipt stamped Utility Patent Application Transmittal form dated January 28, 2000; Transmittal Letter For Patent Application dated January 28, 2000; Application dated January 28, 2000; Filing Receipt dated May 23, 2000; Executed Declaration and Power of Attorney; Preliminary Amendment dated October 15, 2001; Office Action (Restriction Requirement) dated November 27, 2001; Revocation and Power of Attorney and Grant of New Power of Attorney dated December 21, 2001; Notice Regarding Power of Attorney dated January 3, 2002; Office Action (Restriction Requirement) dated January 15, 2002; Petition for Extension of Time and date stamped return receipt postcard dated March 15, 2002; Transmittal Letter and Preliminary Amendment dated March 15, 2002; Response to Restriction Requirement dated March 15, 2002; Non-Final Office Action dated March 29, 2002; Information Disclosure Statement and stamped return receipt postcard dated July 24, 2002; Transmittal Letter, Amendment with Request for Extension of Time and date stamped return receipt postcard dated July 29, 2002; Final Rejection dated October 16, 2002; Supplemental Information Disclosure Statement and date stamped return receipt postcard dated December 10, 2002; Petition for Extension of Time and Notice of Appeal dated April 16, 2003; Request for Continued Examination and facsimile confirmation dated November 11, 2003; Communication Dismissing Appeal dated December 11, 2003; Fee Transmittal, Credit Card Payment Form, Petition for Revival of an Application for Patent Abandoned Unavoidably dated January 27, 2004; Petition to Revive with and date stamped return receipt postcard dated October 25, 2004; Assignee Power of Attorney and return receipt postcard dated December 3, 2004; Notice of Acceptance of Power of Attorney and Notice Regarding Change of Power of Attorney dated May 10, 2005; Notification of Loss of Entitlement to Small Entity Status; Receipt; all hand delivered

**Applicant(s):** Charles Eric Hunter and John H. Hebrank

**Title:** MUSIC DISTRIBUTION SYSTEM

**Application No.:** 09/493,854

**Filed:** January 28, 2000

**Docket No.:** IVOO-0002

**Date Sent:** November 20, 2006

**Sent By:** MDS/GSPlichta/lnapoli

2007 JAN 29 PM 2:31

Day : Monday  
Date: 1/29/2007

Time: 17:22:11

PALM INTRANET

## Content Information for 09/493854

Search Another: Application#   or Patent#

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Attorney Docket #

Bar Code #

Date	Status	Code	Description
01/18/2007		M2511	MAIL RECONSTRUCTION NOTICE - ABANDONED APPLI
01/18/2007		2511	RECONSTRUCTION NOTICE UNDER 37 CFR 1.251 - ABAN
05/10/2005		C.AD	CORRESPONDENCE ADDRESS CHANGE
05/10/2005		PA..	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASS
04/06/2005		LFLOST	FILE MARKED LOST
10/25/2004		PET.	PETITION ENTERED
10/25/2004		WPET	WORKFLOW INCOMING PETITION IFW
12/11/2003		MABN2	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO C
12/10/2003	161	ABN2	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICI
04/16/2003	120	N/AP	NOTICE OF APPEAL FILED
04/16/2003		XT/G	REQUEST FOR EXTENSION OF TIME - GRANTED
12/10/2002		M844	INFORMATION DISCLOSURE STATEMENT (IDS) FILED
10/16/2002	61	MCTFR	MAIL FINAL REJECTION (PTOL - 326)
10/15/2002	60	CTFR	FINAL REJECTION
08/29/2002		FWDX	DATE FORWARDED TO EXAMINER
07/29/2002	71	A...	RESPONSE AFTER NON-FINAL ACTION
07/29/2002		XT/G	REQUEST FOR EXTENSION OF TIME - GRANTED
07/24/2002		M844	INFORMATION DISCLOSURE STATEMENT (IDS) FILED
07/24/2002		M844	INFORMATION DISCLOSURE STATEMENT (IDS) FILED
04/23/2002		DOCK	CASE DOCKETED TO EXAMINER IN GAU
03/29/2002	41	MCTNF	MAIL NON-FINAL REJECTION
03/25/2002	40	CTNF	NON-FINAL REJECTION
03/22/2002		FWDX	DATE FORWARDED TO EXAMINER
03/15/2002	71	ELC.	RESPONSE TO ELECTION / RESTRICTION FILED
03/15/2002		A.PE	PRELIMINARY AMENDMENT

03/15/2002		XT/G	REQUEST FOR EXTENSION OF TIME - GRANTED
01/15/2002	41	MCTRS	MAIL RESTRICTION REQUIREMENT
01/14/2002	40	CTRS	REQUIREMENT FOR RESTRICTION / ELECTION
01/03/2002		C.AD	CORRESPONDENCE ADDRESS CHANGE
01/03/2002		PA..	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASS
01/02/2002		FWDX	DATE FORWARDED TO EXAMINER
12/21/2001	71	ELC.	RESPONSE TO ELECTION / RESTRICTION FILED
10/18/2001		A.PE	PRELIMINARY AMENDMENT
11/27/2001	41	MCTRS	MAIL RESTRICTION REQUIREMENT
11/27/2001	40	CTRS	REQUIREMENT FOR RESTRICTION / ELECTION
06/04/2001		DOCK	CASE DOCKETED TO EXAMINER IN GAU
08/04/2000	30	DOCK	CASE DOCKETED TO EXAMINER IN GAU
05/24/2000	20	OIPE	APPLICATION DISPATCHED FROM OIPE
05/23/2000		COMP	APPLICATION IS NOW COMPLETE
03/27/2000		INCD	NOTICE MAILED--APPLICATION INCOMPLETE--FILING
03/25/2000		C.AD	CORRESPONDENCE ADDRESS CHANGE
02/25/2000		SCAN	IFW SCAN & PACR AUTO SECURITY REVIEW
02/04/2000		G011	PREEXAMINATION LOCATION CHANGE
02/04/2000	19	IEXX	INITIAL EXAM TEAM NN

<a href="#">Appln Info</a>	<a href="#">Contents</a>	<a href="#">Petition Info</a>	<a href="#">Atty/Agent Info</a>	<a href="#">Continuity/Reexam</a>	<a href="#">Foreign Data</a>
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To go back use Back button on your browser toolbar.

Back to [PALM](#) | [ASSIGNMENT](#) | [OASIS](#) | [Home page](#)